

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

CHRISTINE HOLLIS
KRIS HOLLIS

Case No. 1:18-cv-00163

Plaintiffs,

v.

CAPITAL LINK MANAGEMENT, LLC
ACCOUNT RECOVERY SOLUTIONS LLC
HARTFORD CASUALTY INSURANCE COMPANY
SMAUEL PICCIONE
DENISA PICCIONE

Defendants.

**DEFENDANTS CAPITAL LINK MANAGEMENT, LLC'S, HARTFORD CASUALTY
INSURANCE COMPANY'S, SAMUEL PICCIONE'S AND DENISA PICCIONE'S
ANSWER TO PLAINTIFFS' COMPLAINT**

Defendants, Capital Link Management, LLC ("Capital Link"), Hartford Casualty Insurance Company ("Hartford"), Samuel Piccione ("Mr. Piccione") and Denisa Piccione ("Ms. Piccione," collectively referred to as "Defendants"), by and through their undersigned attorneys, answering the Plaintiffs' Complaint, on information and belief:

JURISDICTION

1. The allegations in Paragraph 1 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny each and every allegation in Paragraph 1.

2. The allegations in Paragraph 2 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny each and every allegation in Paragraph 2.

3. Defendants deny each and every allegation in Paragraph 3.

VENUE

4. The allegations in Paragraph 4 constitute conclusions of law, to which no response is required. To the extent that a response is required, Defendants deny each and every allegation in Paragraph 4.

5. Defendants lack knowledge or information sufficient to form a belief as to Plaintiffs' residence, and therefore Defendants deny same.

PARTIES

6. Defendants lack knowledge or information sufficient to form a belief as to Plaintiff's residence, and therefore Defendants deny same. Defendants deny each and every remaining allegation in Paragraph 6.

7. Defendants lack knowledge or information sufficient to form a belief as to Plaintiff's residence, and therefore Defendants deny same. Defendants deny each and every remaining allegation in Paragraph 7.

8. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 8, and therefore deny same.

9. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 9, and therefore deny same.

10. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 10, and therefore deny same.

11. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 11, and therefore deny same.

12. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 12, and therefore deny same.

13. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 13, and therefore deny same.

14. Defendants admit that Capital is a business entity with a place of business in New York State.

15. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 15, and therefore deny same.

16. Capital Link Management, LLC's website speaks for itself and no response is required. To the extent that a response is required, Defendants deny each and every allegation in Paragraph 16.

17. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 17, and therefore deny same.

18. Defendants deny each and every allegation in Paragraph 18.

19. Defendants deny each and every allegation in Paragraph 19.

20. Defendants deny each and every allegation in Paragraph 20.

21. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 21, and therefore deny same.

22. Defendants deny each and every allegation in Paragraph 22.

23. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 23, and therefore deny same.

24. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 24, and therefore deny same.

25. Defendants admit that Mr. Piccione is a natural person who resides in Lockport, New York.

26. Defendants deny each and every allegation in Paragraph 26.

27. Defendants deny each and every allegation in Paragraph 27.

28. Defendants deny each and every allegation in Paragraph 28.

29. Defendants admit that Ms. Piccione is a natural person who resides in Lockport, New York.

30. Defendants deny each and every allegation in Paragraph 30.

31. Defendants deny each and every allegation in Paragraph 31.

32. Defendants deny each and every allegation in Paragraph 32.

FACTUAL ALLEGATIONS

33. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 33, and therefore deny same.

34. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 34, and therefore deny same.

35. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 35, and therefore deny same.

36. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 36, and therefore deny same.

37. Defendants denies each and every allegations in Paragraph 37.

38. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 38, and therefore deny same.

39. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 39, and therefore deny same.

40. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 40, and therefore deny same.

41. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 41, and therefore deny same.

42. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 42, and therefore deny same.

43. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 43, and therefore deny same.

44. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 44, and therefore deny same.

45. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 45, and therefore deny same.

46. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 46, and therefore deny same.

47. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 47, and therefore deny same.

48. Defendants deny each and every allegation in Paragraph 48.

49. Defendants deny each and every allegation in Paragraph 49.

50. Defendants deny each and every allegation in Paragraph 50.

51. Defendants deny each and every allegation in Paragraph 51.

52. Defendants deny each and every allegation in Paragraph 52.

- 53. Defendants deny each and every allegation in Paragraph 53.
- 54. Defendants deny each and every allegation in Paragraph 54.
- 55. Defendants deny each and every allegation in Paragraph 55.
- 56. Defendants deny each and every allegation in Paragraph 56.
- 57. Defendants deny each and every allegation in Paragraph 57.
- 58. Defendants deny each and every allegation in Paragraph 58.
- 59. Defendants deny each and every allegation in Paragraph 59.
- 60. Defendants deny each and every allegation in Paragraph 60.
- 61. Defendants deny each and every allegation in Paragraph 61.
- 62. Defendants deny each and every allegation in Paragraph 62.
- 63. Defendants deny each and every allegation in Paragraph 63.
- 64. Defendants deny each and every allegation in Paragraph 64.
- 65. Defendants deny each and every allegation in Paragraph 65.

RESPONDEAT SUPERIOR

66. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 66, and therefore deny same.

67. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 67, and therefore deny same

- 68. Defendants deny each and every allegation in Paragraph 68.
- 69. Defendants deny each and every allegation in Paragraph 69.
- 70. Defendants deny each and every allegation in Paragraph 70.
- 71. Defendants deny each and every allegation in Paragraph 71.
- 72. Defendants deny each and every allegation in Paragraph 72.

COUNT I: VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.
BY ACCOUNT RECOVERY SOLUTIONS LLC

73. With respect to Paragraph 73 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 72 with the same force and effect as if fully set forth herein.

74. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 74, and therefore deny same..

75. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 75, and therefore deny same.

COUNT II: VIOLATIONS OF THE TEXAS FINANCE CODE BY ACCOUNT
RECOVERY SOLUTIONS LLC

76. With respect to Paragraph 76 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 75 with the same force and effect as if fully set forth herein.

77. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 77, and therefore deny same.

78. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 78, and therefore deny same.

79. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 79, and therefore deny same.

COUNT III: INVASION OF PRIVACY QNTRUSION ON SECLUSION
BY ACCOUNT RECOVERY SOLUTIONS LLC

80. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 80, and therefore deny same.

81. Defendants lack knowledge or information sufficient to form a belief as to the allegations in Paragraph 81, and therefore deny same.

COUNT IV: VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.
BY CAPITAL LINK MANAGEMENT, LLC

82. With respect to Paragraph 82 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 81 with the same force and effect as if fully set forth herein.

83. Defendants deny each and every allegation in Paragraph 83.

84. Defendants deny each and every allegation in Paragraph 84.

COUNT V: VIOLATIONS OF THE TEXAS FINANCE CODE
BY CAPITAL LINK MANAGEMENT, LLC

85. With respect to Paragraph 85 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 84 with the same force and effect as if fully set forth herein.

86. Defendants deny each and every allegation in Paragraph 86.

87. Defendants deny each and every allegation in Paragraph 87.

88. Defendants deny each and every allegation in Paragraph 88.

89. Defendants deny each and every allegation in Paragraph 89.

COUNT VI: INVASION OF PRIVACY (INTRUSION ON SECLUSION)
BY CAPITAL LINK MANAGEMENT, LLC

90. Defendants deny each and every allegation in Paragraph 90.

91. Defendants deny each and every allegation in Paragraph 91.

COUNT VII: VIOLATIONS OF THE FDCA 15 U.S.C. § 1692 et seq.
BY SAMUEL PICCIONE

92. With respect to Paragraph 92 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 91 with the same force and effect as if fully set forth herein.

93. Defendants deny each and every allegation in Paragraph 93.

94. Defendants deny each and every allegation in Paragraph 94.

COUNT VIII: VIOLATIONS OF THE TEXAS FINANCE CODE
BY SAMUEL PICCIONE

95. With respect to Paragraph 95 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 94 with the same force and effect as if fully set forth herein.

96. Defendants deny each and every allegation in Paragraph 96.

97. Defendants deny each and every allegation in Paragraph 97.

98. Defendants deny each and every allegation in Paragraph 98.

COUNT IX: INVASION OF PRIVACY (INTRUSION ON SECLUSION)
BY SAMUEL PICCIONE

99. Defendants deny each and every allegation in Paragraph 99.

100. Defendants deny each and every allegation in Paragraph 100.

COUNT X: VIOLATIONS OF THE FDCA 15 U.S.C. § 1692, et seq.
BY DENIS PICCIONE

101. With respect to Paragraph 101 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 100 with the same force and effect as if fully set forth herein.

102. Defendants deny each and every allegation in Paragraph 102.

103. Defendants deny each and every allegation in Paragraph 103.

**COUNT XI: VIOLATIONS OF THE TEXAS FINANCE CODE
BY DENISA PICCIONE**

104. With respect to Paragraph 104 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 103 with the same force and effect as if fully set forth herein.

105. Defendants deny each and every allegation in Paragraph 105.

106. Defendants deny each and every allegation in Paragraph 106.

107. Defendants deny each and every allegation in Paragraph 107.

**COUNT XII: INVASION OF PRIVACY (INTRUSION ON SECLUSION)
BY DENISA PICCIONE**

108. Defendants deny each and every allegation in Paragraph 108.

109. Defendants deny each and every allegation in Paragraph 109.

**COUNT XIII: IMPUTED LIABILITY OF HARTFORD CASUAL TY INSURANCE
COMPANY FOR LIABILITY OF CAPITAL LINK MANAGEMENT, LLC**

110. With respect to Paragraph 110 of the Plaintiff's Complaint, Defendant repeats and realleges its answers to Paragraphs 1 through 109 with the same force and effect as if fully set forth herein.

111. Defendants deny each and every allegation in Paragraph 111.

112. Defendants deny each and every allegation in Paragraph 112.

EXEMPLARY DAMAGES

113. Defendants deny all allegations in Paragraph 113 that Plaintiff cites in support of exemplary damages. Additionally, Defendants deny the applicability or appropriateness of exemplary damages to this matter.

JURY TRIAL DEMAND

114. Defendants admit that Plaintiff demands a jury trial.

FIRST AFFIRMATIVE DEFENSE

115. The Complaint fails to state a claim upon which relief can be granted against the answering Defendants.

SECOND AFFIRMATIVE DEFENSE

116. The claims alleged in the Complaint are barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

117. Plaintiffs failed to mitigate their damages.

FOURTH AFFIRMATIVE DEFENSE

118. Plaintiffs' claims may be precluded, in whole or part, to the extent Plaintiffs' damages, if any, were caused by Plaintiffs' acts and/or omissions.

FIFTH AFFIRMATIVE DEFENSE

119. Plaintiffs' claims may be precluded, in whole or part, to the extent Plaintiffs' damages, if any, were caused by third parties over whom Defendants had no control or authority.

SIXTH AFFIRMATIVE DEFENSE

120. Plaintiffs' damages, if any, are speculative.

SEVENTH AFFIRMATIVE DEFENSE

121. To the extent that Defendants' actions violated the law, such actions were the result of a bona fide error notwithstanding reasonable procedures designed to avoid such error(s).

EIGHTH AFFIRMATIVE DEFENSE

122. To the extent Defendants' actions violated the law; such actions were neither intentional, nor willful.

NINTH AFFIRMATIVE DEFENSE

123. Plaintiffs' claims are barred by release, waiver, unclean hands, laches, estoppel and/or res judicata.

TENTH AFFIRMATIVE DEFENSE

124. Defendant Hartford did not extend a bond to any named Defendant during the period of time referenced in Plaintiffs' Complaint. Accordingly, there was no bond in effect for any time relevant to this action.

ELEVENTH AFFIRMATIVE DEFENSE

125. This Court lacks personal jurisdiction over the answering Defendants due to improper service of process.

WHEREFORE, Defendants Capital Link Management, LLC, Hartford Casualty Insurance Company, Samuel Piccione and Denisa Piccione respectfully demand judgment against the Plaintiffs dismissing the Complaint in its entirety together for such other, further or different relief, not inconsistent herewith, as may be just, equitable and proper, together with the costs and disbursements of this action.

DATED: December 6, 2018

LIPPES MATHIAS WEXLER FRIEDMAN LLP

/s/ Brendan H. Little

Brendan H. Little, Esq.

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